

Dr. Hanemann's deposition suspended pending receipt of this disclosure by the Cargill Defendants. (See id. at 46-50.) Plaintiffs provided this disclosure Friday evening, April 10, 2009. (Ex. 1: I. Moll Apr. 10, 2009 email and attachment.) The Cargill Defendants diligently analyzed this additional disclosure to determine which of Plaintiffs' natural resources damages experts needed to be deposed. Except for Dr. Hanemann, all of the other natural resource damages experts that the Cargill Defendants wish to depose have been scheduled prior to the May 1 cut-off. Given Plaintiffs' expert disclosures, the Cargill Defendants believe Dr. Hanemann to be a key expert witness on damages.

On Sunday, April 12, 2009, the Cargill Defendants' counsel corresponded with Plaintiffs' counsel to establish a deposition date for Dr. Hanemann on or before the May 1 deadline. (Ex. 2: C. Deihl Apr. 12-13, 2009 email chain.) Plaintiffs indicated that the only dates Dr. Hanemann is available between now and May 1 are Saturday, April 18, 2009 or Sunday, April 19, 2009. (Id.) The Cargill Defendants' counsel cannot take Dr. Hanemann's deposition on these days due to other scheduling conflicts. Moreover, the Cargill Defendants' damages experts are not available to attend a deposition on either of the days proposed by Plaintiffs. Plaintiffs have indicated the next available date for Dr. Hanemann is May 5, 2009. (Id.) Plaintiffs do not oppose this motion for leave to take Dr. Hanemann's deposition out of time on May 5, 2009. (Id.)

"A schedule may be modified only for good cause and with the judge's consent." Fed. R. Civ. P. 16(b)(4). Here, there are several factors which warrant a finding of good cause for the delay in taking the Hanemann deposition, including: (1) the Cargill Defendants' diligent efforts to schedule as many depositions as possible prior to the May 1 deadline, (2) the significance of Dr. Hanemann's testimony on damages should he be called to testify at trial, (3) the Court-ordered suspension of Dr. Hanemann's deposition pending the Cargill Defendants' receipt of

Plaintiffs' additional expert disclosure, (4) Dr. Hanemann's very limited availability between now and the May 1 deadline, (5) the unavailability of the Cargill Defendants' counsel and experts on the two weekend days Dr. Hanemann is available between now and the deadline, and (6) the relatively close proximity of the proposed deposition date to the May 1 deadline. In addition, permitting Dr. Hanemann's deposition to occur beyond the deadline as requested will not prejudice any party or cause any undue delay in the remainder of trial preparation, nor will this schedule affect any other deadlines in the scheduling order.

Thus, the Cargill Defendants respectfully request the Court enter an Order allowing them to take the deposition of W. Michael Hanemann on May 5, 2009.

Respectfully submitted,

Rhodes, Hieronymus, Jones, Tucker & Gable, PLLC

BY: /s/ John H. Tucker

JOHN H. TUCKER, OBA #9110

THERESA NOBLE HILL, OBA #19119

100 W. Fifth Street, Suite 400 (74103-4287)

P.O. Box 21100

Tulsa, Oklahoma 74121-1100

Telephone: 918/582-1173

Facsimile: 918/592-3390

And

DELMAR R. EHRICH

BRUCE JONES

KRISANN C. KLEIBACKER LEE

FAEGRE & BENSON LLP

2200 Wells Fargo Center

90 South Seventh Street

Minneapolis, Minnesota 55402

Telephone: 612/766-7000

Facsimile: 612/766-1600

ATTORNEYS FOR CARGILL, INC. AND CARGILL

TURKEY PRODUCTION, LLC

CERTIFICATE OF SERVICE

I certify that on the 14th day of April, 2009, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

W. A. Drew Edmondson, Attorney General
Kelly Hunter Burch, Assistant Attorney General
J. Trevor Hammons, Assistant Attorney General
Daniel Lennington, Assistant Attorney General

drew_edmondson@oag.state.ok.us
kelly_burch@oag.state.ok.us
trevor_hammons@oag.state.ok.us
Daniel.lennington@oag.ok.gov

Melvin David Riggs
Joseph P. Lennart
Richard T. Garren
Sharon K. Weaver
Robert Allen Nance
Dorothy Sharon Gentry
David P. Page
Riggs Abney Neal Turpen Orbison & Lewis, P.C.

driggs@riggsabney.com
jlennart@riggsabney.com
rgarren@riggsabney.com
sweaver@riggsabney.com
rnance@riggsabney.com
sgentry@riggsabney.com
dpage@riggsabney.com

Louis W. Bullock
J. Randall Miller
Miller Keffer & Bullock Pedigo LLC

lbullock@mkblaw.net
rmiller@mkblaw.net

William H. Narwold
Elizabeth C. Ward
Frederick C. Baker
Lee M. Heath
Elizabeth Claire Xidis
Fidelma L Fitzpatrick
Motley Rice LLC

bnarwold@motleyrice.com
lward@motleyrice.com
fbaker@motleyrice.com
lheath@motleyrice.com
cxidis@motleyrice.com
ffitzpatrick@motleyrice.com

COUNSEL FOR PLAINTIFFS

Stephen L. Jantzen
Paula M. Buchwald
Patrick Michael Ryan
Ryan, Whaley & Coldiron, P.C.

sjantzen@ryanwhaley.com
pbuchwald@ryanwhaley.com
pryan@ryanwhaley.com

Mark D. Hopson
Jay Thomas Jorgensen
Timothy K. Webster
Gordon D. Todd
Sidley Austin LLP

mhopson@sidley.com
jjorgensen@sidley.com
twebster@sidley.com
gtodd@sidley.com

L Bryan Burns
Robert W. George

bryan.burns@tyson.com
robert.george@tyson.com

Michael R. Bond
Erin W. Thompson
Dustin R. Darst
Kutack Rock LLP

michael.bond@kutackrock.com
erin.thompson@kutackrock.com
dustin.dartst@kutackrock.com

**COUNSEL FOR TYSON FOODS, INC., TYSON POULTRY, INC., TYSON CHICKEN, INC.;
AND COBB-VANTRESS, INC.**

R. Thomas Lay
Kerr, Irvine, Rhodes & Ables

rtl@kiralaw.com

Jennifer S. Griffin
Lathrop & Gage, L.C.

jgriffin@lathropgage.com

COUNSEL FOR WILLOW BROOK FOODS, INC.

Robert P. Redemann
Lawrence W. Zeringue
David C. Senger
Perrine, McGivern, Redemann, Reid, Berry & Taylor, PLLC

rredemann@pmrlaw.net
lzingue@pmrlaw.net
dsenger@pmrlaw.net

Robert E. Sanders
E. Stephen Williams
Young Williams P.A.

rsanders@youngwilliams.com
steve.williams@youngwilliams.com

COUNSEL FOR CAL-MAINE FOODS, INC. AND CAL-MAINE FARMS, INC.

George W. Owens
Randall E. Rose
The Owens Law Firm, P.C.

gwo@owenslawfirmmpc.com
rer@owenslawfirmmpc.com

James M. Graves
Gary V. Weeks
Woody Bassett
K.C. Dupps Tucker
Bassett Law Firm

jgraves@bassettlawfirm.com
gweeks@bassettlawfirm.com
wbassett@bassettlawfirm.com
kctucker@bassettlawfirm.com

COUNSEL FOR GEORGE'S INC. AND GEORGE'S FARMS, INC.

John R. Elrod
Vicki Bronson
Bruce W. Freeman
P. Joshua Wisley
Conner & Winters, LLLP

jelrod@cwlaw.com
vbronson@cwlaw.com
bfreeman@cwlaw.com
jwisley@cwlaw.com

COUNSEL FOR SIMMONS FOODS, INC.

A. Scott McDaniel
Nicole M. Longwell
Philip D. Hixon
Craig Mirkes
McDaniel, Hixon, Longwell & Acord, PLLC

smcdaniel@mhla-law.com
nlongwell@mhla-law.com
phixon@mhla-law.com
cmirkes@mhla-law.com

Sherry P. Bartley
Mitchell Williams Selig Gates & Woodyard
COUNSEL FOR PETERSON FARMS, INC.

sbartley@mwsgw.com

Michael D. Graves

mgraves@hallestill.com

Dale Kenyon Williams, Jr.

kwilliams@hallestill.com

COUNSEL FOR CERTAIN POULTRY GROWERS

I also hereby certify that I served the attached documents by United States Postal Service, proper postage paid, on the following who are not registered participants of the ECF System:

Thomas C. Green

Sidley Austin Brown & Wood LLP

1501 K Street NW

Washington, DC 20005

**COUNSEL FOR TYSON FOODS,
INC., TYSON POULTRY, INC.,
TYSON CHICKEN, INC.; AND
COBB-VANTRESS, INC.**

s/ John H. Tucker